

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

Mitch Pangerl,

Complainant,

vs.

Ed Montbriand,

Respondent.

**FINDINGS OF FACT,  
CONCLUSIONS, AND  
ORDER**

The above-entitled matter came before a panel of three Administrative Law Judges: Kathleen D. Sheehy (Presiding Judge), Richard C. Luis, and Barbara L. Neilson on October 28, 2011. Pursuant to the agreement of the parties, the panel made its determination based on the file and the record created at the October 17, 2011, telephone prehearing conference.<sup>1</sup> The record closed on October 17, 2011.

Mitch Pangerl and Ed Montbriand participated in the October 17, 2011, telephone prehearing conference without counsel.

**NOTICE**

This is the final decision in this case, as provided in Minn. Stat. § 211B.36, subd. 5 (2010).<sup>2</sup> A party aggrieved by this decision may seek judicial review as provided in Minn. Stat. §§ 14.63 to 14.69.

**STATEMENT OF ISSUES**

Did Respondent Ed Montbriand violate Minnesota Statutes § 211A.12 by accepting a campaign contribution in excess of \$300 from an individual donor? If so, what is the appropriate penalty for that violation?

Respondent Ed Montbriand does not dispute that he violated Minn. Stat. § 211A.12 when he accepted a campaign contribution from an individual in the amount of \$800. The panel concludes that the Respondent must return \$500 to the donor and pay a civil penalty in the amount of \$500.

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<sup>1</sup> During the telephone conference, the parties agreed to waive their rights to an evidentiary hearing, and the hearing scheduled for November 1, 2011, was cancelled. The record includes the digital recording of the telephone conference and the Complaint with its attachments (Respondent's 2010 campaign financial reports).

<sup>2</sup> All citations to Minnesota Statutes are to the 2010 edition.

Based upon the entire record, the panel makes the following:

### **FINDINGS OF FACT**

1. The Complainant and Respondent were both candidates for Pine County Commissioner District 2 in the November 2010 election.

2. The Respondent was the incumbent candidate and was Chair of the Pine County Commission in 2010. The Respondent had run for election to the Pine County Commission on three prior occasions.<sup>3</sup>

3. On October 20, 2010, the Respondent accepted an \$800 cash contribution to his campaign from a Mr. Bob Hunt.<sup>4</sup>

4. The Respondent disclosed the \$800 contribution on his campaign financial report dated October 22, 2010, which covered the period July 27, 2010, through October 22, 2010. This was the only contribution that Respondent reported receiving in connection with this campaign.<sup>5</sup>

5. The Complainant was elected to the District 2 Pine County Commissioner seat by approximately 53 percent of the vote.<sup>6</sup>

6. Pine County has a population of approximately 30,000.<sup>7</sup>

7. The Complainant filed this complaint against the Respondent on September 20, 2011.

8. At the October 17, 2011 prehearing conference, the Respondent stated that he was unaware of the campaign contribution limit and did not intentionally violate the law.

Based upon the foregoing Findings of Fact, the panel makes the following:

### **CONCLUSIONS**

1. Minn. Stat. § 211B.35 authorizes the panel of Administrative Law Judges to consider this matter.

2. The burden of proving the allegations in the complaint is on the Complainant. The standard of proof is a preponderance of the evidence.<sup>8</sup>

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<sup>3</sup> Testimony of Ed Montbriand.

<sup>4</sup> Test. of E. Montbriand.

<sup>5</sup> Campaign Financial Report (Oct. 22, 2010), attachment to Complaint.

<sup>6</sup> <http://electionresults.sos.state.mn.us/20101102/ElecRsults.asp?CtyCd=58&M=CTY&Races=0392&CtyNm=Pine&ZoneName=&DID=>.

<sup>7</sup> <http://quickfacts.census.gov/qfd/states/27/27115.html>.

<sup>8</sup> Minn. Stat. § 211B.32, subd. 4.

3. Minn. Stat. § 211A.12 prohibits candidates for office whose territory has a population of 100,000 or less from accepting contributions by an individual or committee in excess of \$300 in an election year.<sup>9</sup>

4. The Respondent violated Minn. Stat. § 211A.12 by accepting an \$800 campaign contribution from an individual donor.

5. Pursuant to Minn. Stat. § 211B.35, subd. 2, the panel of Administrative Law Judges may issue a reprimand or impose a civil penalty of up to \$5,000 for any violation of chapter 211A or 211B.

Based upon the record herein, and for the reasons stated in the following Memorandum, the panel of Administrative Law Judges makes the following:

### **ORDER**

#### **IT IS ORDERED:**

1. That Respondent shall refund \$500, the amount received in excess of the contribution limit, to Bob Hunt.

2. That Respondent shall pay a civil penalty in the amount of \$500 for violating Minn. Stat. § 211A.12.

3. That Respondent shall file an affidavit demonstrating compliance with this Order by January 1, 2012.<sup>10</sup>

Dated: October 31, 2011.

s/Kathleen D. Sheehy  
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KATHLEEN D. SHEEHY  
Presiding Administrative Law Judge

s/Richard C. Luis  
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RICHARD C. LUIS  
Administrative Law Judge

s/Barbara L. Neilson  
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BARBARA L. NEILSON  
Administrative Law Judge

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<sup>9</sup> Minn. Stat. § 211A.12.

<sup>10</sup> The check should be made payable to "Treasurer, State of Minnesota" and sent to the Office of Administrative Hearings, P.O. Box 64620, St. Paul MN 55164-0620. The affidavit should be sent to the Presiding Judge at the same address.

## **MEMORANDUM**

The facts in this matter are not in dispute. Mr. Montbriand, the incumbent candidate in the November 2010 election for Pine County Commission District 2, accepted an \$800 campaign contribution from an individual during the course of his campaign. Mr. Montbriand was unaware of the \$300 contribution limit prescribed by Minn. Stat. § 211A.12. He disclosed the contribution on his campaign financial report dated October 22, 2010.

Having found that the Respondent violated Minn. Stat. § 211A.12, the panel may make one of several dispositions.<sup>11</sup> The panel may issue a reprimand, may impose a civil penalty of up to \$5,000, and may refer the complaint to the appropriate county attorney for criminal prosecution.

In this case, the appropriate remedy is to require the Respondent to return the excess contribution to the donor and to pay a civil penalty in the same amount. The violation was unintentional, but the Respondent is an experienced candidate and should have been aware of the limit.

K.D.S., R.C.L., B.L.N.

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<sup>11</sup> Minn. Stat. § 211B.35, subd. 2.